IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9347 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAHANGIR H PATHAN - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR DC DAVE for Petitioner(s) : 1,

GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

RULE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 29/11/2005

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution, the petitioner has challenged the legality and validity of the communication / order passed by the Additional District Magistrate, Bharuch dtd.10/6/1999 by which, the application submitted by the petitioner for extending the operation of the territorial limits of the licence granted in favour of the petitioner under the provisions of the Arms Act, has been rejected.

2. Mr.Dhaval Dave, learned advocate appearing on behalf of the petitioner has submitted that apart from the fact that the concerned District Superintendent of Police has submitted report in favour of the petitioner, even the impugned order dtd.10/6/1999 is a non-

speaking order and no reason has been assigned while passing the impugned order.

3. It is the case on behalf of the respondent that reasons were very much there, but the petitioner had never demanded the same. Be that it may, the fact remains that no reasons have been communicated to the petitioner till date.

4. On going through he impugned order dtd.10/6/1999, it is crystal clear that that no reasons have been assigned by the Additional District Magistrate and even the State Government which is reflected in the impugned communication / order dtd.10/6/1999. It is the contention of the petitioner that though the petitioner has demanded reasons given by the State Government, no reasons has been supplied to the petitioner. This Court in the case of **Ambalal Somabhai Parmar Vs. State of Gujarat,**

reported in (2004) 7 G.H.J. 138, after considering the judgement of this Court has observed that the parties are required to assign reasons while granting or refusing the application more particularly when the same is subject tot he challenge before the higher authority, so that the higher authority can know what was passing in the mind of the authority below while passing the impugned order. Under the circumstances, only on that ground, the petition is required to be allowed and the matter is required to be remanded to the State Government i.e. the Secretary, Home Department to decide the application submitted by the petitioner afresh and pass appropriate order assigning reasons in accordance with law and on merits, as expeditiously as possible preferably within a period of SIX MONTHS from the date of receipt of writ of this order.

5. For the reasons stated as aforesaid, the

petition succeeds in part. The impugned communication / order dtd.10/6/1999 is hereby quashed and set aside and the matter is remanded to the respondent for passing appropriate reasoned order as aforesaid. If the respondent No.1 is of the opinion that the application is not required to be granted then the authority shall communicate the reasons to the petitioner so that the petitioner can challenge the same before the appropriate authority.

6. However, it is made clear that this Court has not expressed any opinion on the merits of the case and it is for the respondent No.1 to take appropriate decision as stated above.

(M.R. SHAH,J.)

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